

1912-010 Chancery Causes: J. R. Legg to vs. J. H. Cooper to
Lee Co.

Kegley, Hughes, Kirk

CA - Contract Dispute
T - Property

To the Hon.H.A.W.Skeen,Judge of the Circuit Court of Lee
County,Virginia:

Humbly complaining,your orators,J.R.Legg and B.S.Kegley would respectfully represent and show unto your honor that in the year 1911,on the ____ day of ____ one J.H.Cooper sold unto one Albert Kirk a certain lot of cross tie timber by a verbal contract at the rate of 16 cents per tie,in the log,to be delivered by said Cooper to the saw-mill of your complainants in Lee County Virginia,to be manufactured by your complainants into finished cross-ties,and under said contract said Cooper did deliver to your complainants' said saw-mill enough timber to make 444 cross-ties, without reserving any lien thereon for the purchase money or price of said timber;that your complainants took possession of said timber *and manufactured the same into finished cross-ties* and at the price of twelve and one-half cents per tie, and your complainants held the possession of said ties for their manufacturer's lien thereon until the 24th day of April,1912;when one J.T.Hughes a constable of said county,levied an execution thereon in favor of the said J.H.Cooper against said Albert Kirk for the sum of \$71.68 with interest thereon from the 1st day of March,1912,and \$4.50 cents costs,and ousting your complainants of their said possession of said cross-ties with the intention of defeating your complainants lien thereon for their said saw bill,amount to \$55.90,and the said Hughes constable as aforesaid has said cross ties advertised for sale on the 25 th day of May,1912 to satisfy said execution,and will proceed to sell the same unless he is restrained from doing so.

Your complainants say that they cannot file a petition ~~for~~ for an interpleader in said matter and try the rights of property thereunder,because they have only a special interest therein and do not hold the legal title thereto,and that they have no adequate remedy at law.

Being remediless therefore,save in a court of equity,the prayer of your complainants is,that the said J.H.Cooper,J.T.Hughes constable as aforesaid and Albert Kirk be made parties defendants to this bill and that they be required to answer the same,but they need not do so under oath,that being specifically waived,and that the said J.T.Hughes,

constable as aforesaid and the said said J.H.Cooper be inhibited, restrained and enjoined from selling said crossties under said ~~xxxx~~ execution; that upon a final hearing your petitioners be declared to have a lien upon said crossties for their said saw-bill of \$55.90 and that the same be sold to satisfy said lien, and that the purchase price of said same be first applied to the discharge of said lien and the costs of this suit, and the residue if any be paid to those entitled thereto, and that all such other and further relief be afforded your complainants as in the premises may be just and right and they will ever pray etc.

J.C. Noel p.q.

Virginia, Lee County, to-wit:

I, J.J. Yeary, a Justice of the peace in and for the county aforesaid do hereby certify that J.R. Legg personally appeared before me in my county aforesaid, and made oath before me that the allegations in the above bill of complaint are true. Given under my hand this 17th day of May, 1912.

J.J. Yeary J.P.

J. R. Legg et al.
vs { Bill in Chancery
J. H. Cooper et al.

J. R. Legg et al
vs J. H. Cooper et al
J. H. Cooper et al

This Cause came on in term time, on this 10th day September 1912, to be heard upon the plaintiffs bill and affidavit, and notice duly served upon the defendants; and it appearing that the sale of the Cross ties has been suspended temporarily, until the application for an injunction could be heard by the Court; and the sale thereof is imminent; it is therefore adjudged ordered and decreed that J. H. Hughes Constable, and J. H. Cooper be and each of them are hereby inhibited, restrained and enjoined from selling the Cross ties mentioned in the Complainant's bill until the further order of this Court. But before this order is effective, the Complainant, or some one for them shall execute bond before the Clerk of this Court in a penalty of \$100.00 Conditioned according to law in such cases provided.

J. R. Gegg et al
vs { Decree

J. H. Coper et al

Entered in C. O. B.
No. 7, page 354 &c

Enter this
H. A. W. Oliver

Judge